

SENATE BILL NO. 238

INTRODUCED BY WHEAT

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING AN INSURANCE CONSUMER EDUCATION FUND TO BE ADMINISTERED BY THE COMMISSIONER OF INSURANCE; PROVIDING A SOURCE OF FUNDS FOR THE INSURANCE CONSUMER EDUCATION FUND; ~~AMENDING SECTIONS 33-2-705 AND 33-2-708, MCA;~~ AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Insurance consumer education fund -- EXPENDITURE LIMITATIONS.** (1)

The commissioner shall establish an insurance consumer education fund to be funded as provided in ~~33-2-705(2)~~ [SECTION 2].

(2) The commissioner shall administer the insurance consumer education fund for the following purposes:

(a) to inform and educate the public regarding consumer issues that are relevant to the purchase or use of insurance products in order to help insurance consumers:

- (i) evaluate their insurance purchase and coverage decisions;
- (ii) protect themselves from unfair, inequitable, or fraudulent offerings;
- (iii) choose their insurance producers and insurance products more carefully;
- (iv) be alert for false or misleading advertising or other harmful practices; and
- (v) know their rights as insurance consumers; and

(b) to pay for:

(i) costs, expenses, travel expenses, and charges incurred in connection with the presentation and dissemination of information to the public, including the cost of printing copies of the Montana insurance code, Title 33, rules adopted under that title, and other materials designed to inform the public;

- (ii) costs of advertising and promotional materials;
- (iii) costs of equipment necessary for public presentations; and
- (iv) costs of training personnel with respect to conducting public presentations.

(3) MATERIAL PRINTED FOR THE PURPOSES OF THIS SECTION MAY INCLUDE THE ADDRESS, TELEPHONE NUMBER,

1 AND ELECTRONIC CONTACT INFORMATION FOR THE COMMISSIONER BUT MAY NOT INCLUDE AN OFFICIAL'S NAME.

2 (4) TRAVEL EXPENSES UNDER THIS SECTION MAY NOT BE USED TO COVER THE COSTS OF TRAVEL OR PER DIEM
3 FOR THE COMMISSIONER.

4 (5) THE INSURANCE CONSUMER EDUCATION FUND IS NOT INTENDED TO ENDORSE OR CREATE BIAS AGAINST ANY
5 INSURANCE PRODUCERS OR INSURANCE PRODUCTS THAT COMPLY WITH THE REQUIREMENTS IN THIS CODE.

6
7 ~~Section 2. Section 33-2-705, MCA, is amended to read:~~

8 ~~"33-2-705. Report on premiums and other consideration -- tax. (1) Each authorized insurer and each~~
9 ~~formerly authorized insurer with respect to premiums received while an authorized insurer in this state shall file~~
10 ~~with the commissioner, on or before March 1 each year, a report in a form prescribed by the commissioner~~
11 ~~showing total direct premium income, including policy, membership, and other fees, premiums paid by~~
12 ~~application of dividends, refunds, savings, savings coupons, and similar returns or credits to payment of~~
13 ~~premiums for new or additional or extended or renewed insurance, charges for payment of premium in~~
14 ~~installments, and all other consideration for insurance from all kinds and classes of insurance, whether~~
15 ~~designated as a premium or otherwise, received by a life insurer or written by an insurer other than a life insurer~~
16 ~~during the preceding calendar year on account of policies covering property, subjects, or risks located, resident,~~
17 ~~or to be performed in Montana, with proper proportionate allocation of premium as to property, subjects, or risks~~
18 ~~in Montana insured under policies or contracts covering property, subjects, or risks located or resident in more~~
19 ~~than one state, after deducting from the total direct premium income applicable cancellations, returned~~
20 ~~premiums, the unabsorbed portion of any deposit premium, the amount of reduction in or refund of premiums~~
21 ~~allowed to industrial life policyholders for payment of premiums direct to an office of the insurer, all policy~~
22 ~~dividends, refunds, savings, savings coupons, and other similar returns paid or credited to policyholders with~~
23 ~~respect to the policies. As to title insurance, "premium" includes the total charge for the insurance. A deduction~~
24 ~~may not be made of the cash surrender values of policies. Considerations received on annuity contracts may~~
25 ~~not be included in total direct premium income and are not subject to tax.~~

26 ~~(2) (a) Coincident with the filing of the tax report referred to in subsection (1), each insurer shall pay to~~
27 ~~the commissioner a tax upon the net premiums computed at the rate of 2 3/4%.~~

28 ~~(b) (i) Ten percent EACH FISCAL YEAR, \$100,000 of the taxes received by the commissioner pursuant to~~
29 ~~subsection (2)(a) must be deposited in the state special revenue account to the credit of the state auditor's office.~~

30 ~~The funds allocated by this subsection (2)(b) may be used only to fund the insurance consumer education fund~~

~~established in [section 1].~~

~~———— (ii) If FOR FISCAL YEAR 2005, \$100,000 MUST BE DEPOSITED PRIOR TO THE END OF THE FISCAL YEAR PURSUANT TO SUBSECTION (2)(B)(I). BEGINNING JULY 1, 2006, at the end of each fiscal year, the balance in the insurance consumer education fund exceeds \$100,000, the excess must be deposited in the general fund.~~

~~———— (3) That portion of the tax paid under this section by an insurer on account of premiums received for fire insurance must be separately specified in the report as required by the commissioner, for apportionment as provided by law. When insurance against fire is included with insurance of property against other perils at an undivided premium, the insurer shall make a reasonable allocation from the entire premium to the fire portion of the coverage as must be stated in the report and as may be approved or accepted by the commissioner.~~

~~———— (4) With respect to authorized insurers, the premium tax provided by this section must be payment in full and in lieu of all other demands for any and all state, county, city, district, municipal, and school taxes, licenses, fees, and excises of whatever kind or character, excepting only those prescribed by this code, taxes on real and tangible personal property located in this state, and taxes payable under 50-3-109.~~

~~———— (5) The commissioner may suspend or revoke the certificate of authority of any insurer that fails to pay its taxes as required under this section.~~

~~———— (6) In addition to the penalty provided for in subsection (5), the commissioner may impose upon an insurer who fails to pay the tax required under this section a fine of \$100 plus interest on the delinquent amount at the annual interest rate of 12%.~~

~~———— (7) The commissioner may by rule provide a quarterly schedule for payment of portions of the premium tax under this section during the year in which tax liability is accrued."~~

~~———— **Section 3.** Section 33-2-708, MCA, is amended to read:~~

~~———— **"33-2-708. Fees and licenses.** (1) (a) Except as provided in 33-17-212(2), the commissioner shall collect a fee of \$1,900 from each insurer applying for or annually renewing a certificate of authority to conduct the business of insurance in Montana:~~

~~———— (b) The commissioner shall collect certain additional fees as follows:~~

~~———— (i) nonresident insurance producer's license:~~

~~———— (A) application for original license, including issuance of license, if issued, \$100;~~

~~———— (B) biennial renewal of license, \$50;~~

~~———— (C) lapsed license reinstatement fee, \$100;~~

1 ~~—— (ii) resident insurance producer's license lapsed license reinstatement fee, \$100;~~
2 ~~—— (iii) surplus lines insurance producer's license:~~
3 ~~—— (A) application for original license and for issuance of license, if issued, \$50;~~
4 ~~—— (B) biennial renewal of license, \$100;~~
5 ~~—— (C) lapsed license reinstatement fee, \$200;~~
6 ~~—— (iv) insurance adjuster's license:~~
7 ~~—— (A) application for original license, including issuance of license, if issued, \$50;~~
8 ~~—— (B) biennial renewal of license, \$100;~~
9 ~~—— (C) lapsed license reinstatement fee, \$200;~~
10 ~~—— (v) insurance consultant's license:~~
11 ~~—— (A) application for original license, including issuance of license, if issued, \$50;~~
12 ~~—— (B) biennial renewal of license, \$100;~~
13 ~~—— (C) lapsed license reinstatement fee, \$200;~~
14 ~~—— (vi) resident and nonresident rental car entity producer's license:~~
15 ~~—— (A) application for original license, including issuance of license, if issued, \$100;~~
16 ~~—— (B) quarterly filing fee, \$25;~~
17 ~~—— (vii) 50 cents for each page for copies of documents on file in the commissioner's office;~~
18 ~~—— (c) The commissioner may adopt rules to determine the date by which a nonresident insurance~~
19 ~~producer, a surplus lines insurance producer, an insurance adjuster, or an insurance consultant is required to~~
20 ~~pay the fee for the biennial renewal of a license.~~
21 ~~—— (2) (a) The commissioner shall charge a fee of \$75 for each course or program submitted for review~~
22 ~~as required by 33-17-1204 and 33-17-1205, but may not charge more than \$1,500 to a sponsoring organization~~
23 ~~submitting courses or programs for review in any biennium.~~
24 ~~—— (b) Insurers and associations composed of members of the insurance industry are exempt from the~~
25 ~~charge in subsection (2)(a).~~
26 ~~—— (3) The Except as provided in 33-2-705(2)(b), the commissioner shall promptly deposit with the state~~
27 ~~treasurer to the credit of the general fund all fines and penalties and those amounts received pursuant to~~
28 ~~33-2-311, 33-2-705, 33-28-201, and 50-3-109. All other fees collected by the commissioner pursuant to Title 33~~
29 ~~and the rules adopted under Title 33 must be deposited in the state special revenue fund to the credit of the state~~
30 ~~auditor's office.~~

1 ~~—— (4) All fees are considered fully earned when received. In the event of overpayment, only those amounts~~
2 ~~in excess of \$10 will be refunded."~~

3
4 NEW SECTION. SECTION 2. FUND SOURCE. ON OR AFTER JULY 1 OF EACH ODD-NUMBERED YEAR, THE
5 COMMISSIONER SHALL TRANSFER SUFFICIENT FUNDS FROM THE STATE SPECIAL REVENUE ACCOUNT PROVIDED FOR IN
6 33-2-708(3) TO THE INSURANCE CONSUMER EDUCATION FUND TO IMPLEMENT THE PROVISIONS OF [SECTION 1]. THE
7 COMMISSIONER SHALL ALSO TRANSFER SUFFICIENT APPROPRIATION AUTHORITY FROM EXISTING APPROPRIATIONS IN THE
8 GENERAL APPROPRIATIONS ACT TO EXPEND FUNDS IN THE ACCOUNT.

9
10 NEW SECTION. SECTION 3. PERFORMANCE OF REQUIRED FUNCTIONS. IT IS THE INTENT OF THE LEGISLATURE
11 THAT THE FUNCTIONS REQUIRED IN [SECTION 1] BE CONDUCTED WITH EXISTING EMPLOYEES AND WITHIN EXISTING LEVELS
12 OF FUNDING.

13
14 NEW SECTION. SECTION 4. CODIFICATION INSTRUCTION. ~~[SECTION 1]~~ IS [SECTIONS 1 AND 2] ARE INTENDED
15 TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 33, CHAPTER 1, AND THE PROVISIONS OF TITLE 33, CHAPTER 1, APPLY
16 TO [SECTION 4 SECTIONS 1 AND 2].

17
18 NEW SECTION. SECTION 5. SAVING CLAUSE. [SECTION 1(4) OF THIS ACT] DOES NOT AFFECT MATERIAL THAT
19 WAS PRINTED BEFORE [THE EFFECTIVE DATE OF THIS ACT].

20
21 NEW SECTION. Section 6. Effective date. [This act] is effective ~~July~~ JUNE JULY 1, 2005.

22 - END -